IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.56 OF 2007

Union of India ..Petitioner

Vs.

Customs, Excise & Gold (Control)
Appellate Tribunal & Anr. ..Respondents

Mr.A.J.Rana, Senior Advocate with Mr.P.S.Jetly for the Petitioner.
Mr.D.B.Shroff, Senior Advocate with Mr.Anil Balani with Mr.S.N.Kantawala with Shilpa Balani for the Respondent No.2.

CORAM :- DR.S.RADHAKRISHNAN &
J.P.DEVADHAR,JJ.

DATE : 15TH FEBRUARY,2007

P.C.

1. Rule. Rule is made returnable forthwith.

Heard the learned Senior Counsel for the parties. The Respondent No.1 is a formal party. The learned Senior Counsel for Respondent No.2 waives service. By consent, matter taken up for final hearing.

2. By this Petition, the Petitioner Union of India is challenging the order dated 2nd June,2006 especially the observations in paragraph No.3,4,5 and 6 of the said order. The learned Senior Counsel for Respondent No.2 has no objection in setting aside the aforesaid order dated 2nd June,2006.

3. Having regard to the facts and circumstances of the case and also in view of the fact that the Petitioner Union of India has already filed the Customs Appeal No.35 of 2006 against the order of the Tribunal dated 1st December,2005, the said observations made in the impugned order are unwarranted. In view thereof, the said order dated 2nd June,2006 stands quashed and set aside.

4. Rule is made absolute accordingly and the Petition stands disposed of.

(J.P.DEVADHAR,J.) **(DR.S.RADHAKRISHNAN,J.)**